Tafas v. Dudas et al Doc. 126

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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

TRIANTAFYLLOS TAFAS,)
Plaintiff,))
v.	Civil Action No. 1:07cv846(L) (JCC/TRJ)
JON W. DUDAS, et al.,))
Defendants.)))
CONSOI	LIDATED WITH
SMITHKLINE BEECHAM CORP., d/b/a GLAXOSMITHKLINE, et al.,))
Plaintiffs,)) Civil Action No. 1:07cv1008 (JCC/TRJ)
v.	
JON W. DUDAS, et al.,))
Defendants.))

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AGAINST THE "GLAXOSMITHKLINE" PLAINTIFFS

Defendants Jon W. Dudas, in his official capacity as Under-Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and the United States Patent and Trademark Office, respectfully move this Court for an Order entering summary judgment against the "GlaxoSmithKline" Plaintiffs. See Fed. R. Civ. P. 56(c). The grounds for this motion are set forth in the contemporaneously-filed Memorandum in Support of Defendants' Motions for Summary Judgment, which, in the interest of economy, combines Defendants' briefs in support of this motion and in support of Defendants' Motion for Summary

Judgment Against Plaintiff Triantafyllos Tafas.¹

Respectfully submitted,

CHUCK ROSENBERG UNITED STATES ATTORNEY

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In these consolidated cases, there are two pending complaints, raising differing claims, for which the plaintiffs are submitting two separate summary judgment motions. See Dkt. No. 108 ("Tafas seeks this modest increase in the page limitation because Tafas has substantially more claims than the other plaintiff (i.e., GSK), including, without limitation, approximately twice as many statutory claims (i.e. 16), three (3) constitutional claims, as well as a Regulatory Flexibility Act claim."). The Court previously authorized the filing of briefs of forty pages in support of the parties' motions for summary judgment. See Dkt. No. 102, Am. Order, Dec. 5, 2007. Plaintiff Tafas and the GlaxoSmithKline Plaintiffs have since sought page extensions to fifty and forty-five pages, respectively. See Dkt. Nos. 108, 116. The brief filed in support of the present Motion is combined with that filed in support of Defendants' Motion for Summary Judgment Against Plaintiff Triantafyllos Tafas. The combined brief contains fewer pages (seventy) than the total pages permitted by the Court's Order (eighty). For that reason, no motion to exceed the page limitation was thought necessary. To the extent the Court may consider it appropriate to seek leave to file a single brief of seventy pages in lieu of two briefs of forty pages each, the USPTO hereby respectfully moves for such leave for good cause shown.

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United States Patent and Trademark Office

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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